

## PLANNED DEVELOPMENT PERMIT AMENDMENT

<b>FILE NO.</b>	<b>PDA74-043-01</b>
<b>LOCATION OF PROPERTY</b>	East side of Rose Terrasse Circle, approximately 330 feet northerly of Pienzanna Court (3695 Rose Terrasse Circle)
<b>ZONING DISTRICT</b>	A(PD) Planned Development
<b>ZONING FILE NUMBER</b>	PDC94-044
<b>GENERAL PLAN DESIGNATION</b>	Public/Quasi-Public
<b>PROPOSED USE</b>	Planned Development Permit Amendment to allow construction of approximately 8,850 square feet of ground-mounted solar photovoltaic arrays and associated equipment on three lots totaling approximately 23.1 acres
<b>ENVIRONMENTAL STATUS</b>	Exempt pursuant to CEQA Guidelines Section 15303(e) for New Construction or Conversion of Small Structures
<b>OWNER/ADDRESS</b>	Greg Gates The Point Church 3695 Rose Terrasse Circle San Jose, CA 95148
<b>APPLICANT/ADDRESS</b>	Becca Thomson Centrica Business Solutions 2985 Kifer Road Santa Clara, CA 95051

### FACTS AND FINDINGS

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts and findings regarding this proposed project:

- 1. Project Description.** This Planned Development Permit Amendment allows the installation of approximately 8,850 square feet of ground-mounted solar photovoltaic arrays and associated equipment, enclosed within a six-foot high wood fence enclosure, and removal of ten ordinance-sized trees, on three lots totaling approximately 23.1 acres in size. Ten trees to be removed will be relocated on the same site and ten new 15-gallon trees will be planted along the western boundary of the site.
- 2. Site Description and Surrounding Uses.** The site is located on the eastern side of Rose Terrasse Circle, approximately 330 feet north of Pienzanna Court, at 3695 Rose Terrasse

Circle. The site has an existing church building to the north and is surrounded by single-family residences to the east, west and south and open space uses to the north. The site will be accessed from Rose Terrasse Circle. The closest residential use will be approximately 122' to the west of the solar panel enclosure area, across Rose Terrasse Circle.

- 3. General Plan Conformance.** The subject site is designated Public/Quasi-Public on the Land Use/Transportation Diagram of the Envision San José 2040 General Plan. Religious assembly uses are appropriate in this designation, as are facilities involved in the provision of public services such as electricity that are consistent in character with established public land uses. The project is also within the Evergreen Specific Plan Area. Additionally, the General Plan contains following policy supportive of solar electricity generation:

Measurable Sustainability MS-2.9: Develop, implement, and utilize programs that help businesses and homeowners improve the energy efficiency of new and existing buildings and use of renewable energy sources, such as solar, through on-site generation or purchase of electricity from solar power programs in California.

*Analysis: The proposed solar panels would support the adjacent church located to the north of the project site, consistent with the General Plan land use designation of Public/Quasi-Public. The project is also consistent with the General Plan Policy in that it helps improve energy efficiency of new and existing buildings and use of renewable energy on site.*

- 4. General Development Plan Conformance.** The subject site is zoned A(PD) Planned Development Zoning District established with File No. PDC94-044. Pursuant to Section 20.100.910 of the San José Municipal Code, a Planned Development Permit Amendment is required prior to the issuance of any building permit for erection, construction, enlargement, placement or installation of a building or structure in conformance with the Zoning Ordinance. The proposed project conforms to the approved General Development Plan of the Planned Development Zoning District (File No. PDC94-044) as follows:
- a. *Use.* The proposed ground mounted solar panels are not enumerated under the General Development Plan but are considered incidental uses permitted within the zoning district.
  - b. *Setbacks.* The General Development Plan does not have specific setback requirement for solar panels. The enclosure will be approximately 300 feet from the front (southern) property line, running parallel to Gurudwara Avenue and approximately 88 feet from the western property line.
- 5. Evergreen Specific Plan.** The project is located in the “RR” Planning Area of the “Hillside Lots” residential land use designation of the Evergreen Specific Plan. This Planning Area contains the allowed uses within this Planning Area district which include libraries, churches, and typical single-family residential uses. Solar panels are supportive uses allowed in this Planning Area.
- 6. Environmental Review.** Class 3 of Section 15303(e) (New Construction or Conversion of Small Structures), consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. Examples of this exemption include, but are not limited to: (e) accessory structures including garages, carports, patios, etc. Under this provision the project is found by the Director of Planning to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California

Environmental Quality Act of 1970, as amended.

*Analysis: The project involves the installation of approximately 8,850 square feet of ground-mounted solar photovoltaic arrays, associated equipment and removal of ten ordinance-sized trees. No other physical changes to the existing buildings are proposed. Therefore, the project is categorically exempt in accordance with CEQA Guidelines Section 15303(e) for small accessory structures.*

- 7. Planned Development Permit Amendment Findings.** This Amendment does not negate any of the findings required under Section 20.100.940 of the Zoning Ordinance, which were made part of the original Planned Development Permit File No. PD94-044, since it does not alter the general character, use or intensity of the project approved under that permit. Chapter 20.100 of Title 20 of the San José Municipal Code establishes these additional required findings for issuance of a Planned Development Permit Amendment:

1. The Planned Development Permit Amendment, as issued, is consistent with and furthers the policies of the General Plan.

*Analysis: The subject site has a General Plan Land Use/Transportation Diagram designation of Public/Quasi-Public. The project conforms to Policy MS 2.9 of the General Plan, as discussed above.*

2. The Planned Development Permit Amendment, as issued, conforms in all respects to the planned development zoning of the property.

*Analysis: The proposed project conforms to the approved Development Standards for the Planned Development Zoning File No. PDC94-044, as discussed above.*

3. The Planned Development Permit Amendment, as approved, is consistent with applicable City Council Policies, or counterbalancing considerations justify the inconsistency.

*Analysis: The City Council has not adopted a specific policy regarding outdoor recreational areas within an existing Planned Development Zoning.*

4. The interrelationship between the orientation, location, mass and scale of building volume, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious.

*Analysis: The ground mounted solar panels are incidental uses, located approximately 334 feet to the south of the adjacent church building on site. The solar panels are enclosed within a six-foot tall wood fence enclosure and will be accessed from Rose Terrasse Circle for maintenance. The project is intended to provide solar lighting for the existing church and will be connected via an underground conduit to the electrical room of the building on site. Ten existing trees will be removed to allow for ground-mounted solar panel installation and will be relocated to the northwest side, closer to the church building, on site. Ten new 15-gallon trees will be planted along the western side, parallel to Rose Terrasse Circle, to screen the project area from view. There are existing trees on site that provide sufficient landscaping and screening from other sides and the project will be mutually compatible and aesthetically harmonious to other uses on site.*

5. The environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties

*Analysis: The proposed construction of ground mounted solar panels would not result in any new environmental impacts, in that there is no physical change or construction involved that would result in adverse impacts related to noise, vibration, or dust. Ten existing trees will be relocated as shown in the approved plans dated 10/28/20. The project is considered exempt from further environmental review under CEQA Guidelines Section 15303(e) for construction of minor accessory structures. Department of Public Works has reviewed the project for drainage, erosion, storm water runoff and provided their Final Memo dated 4/28/20. Considering these facts and findings, the project will not have any significant adverse effects on the adjacent properties.*

6. Traffic access, pedestrian access and parking are adequate.

*Analysis: The access to the site is from Rose Terrasse Circle and is adequate in that the overall circulation and parking of the project site is sufficient for the proposed uses.*

In accordance with the findings set forth above, a Planned Development Permit Amendment for said purpose specified above and subject to each and all the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

#### **APPROVED SUBJECT TO THE FOLLOWING CONDITIONS**

1. **Acceptance of Permit Amendment.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
  - a. Acceptance of the Permit by the applicant; and
  - b. Agreement of the applicant to be bound by, to comply with, and do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such permit.
2. **Permit Amendment Expiration.** This Permit Amendment shall automatically expire two years from and after the date of issuance hereof by said Director, if within such time period, a Building Permit has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit Amendment. The date of issuance is the date this Permit Amendment is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit from the Building Official for the structure described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.

4. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
5. **Conformance to Approved Plans.** The development of the site shall continue to conform to the previously approved Planned Development Permit Amendment plans entitled, “The Point Church, 3695 Rose Terrasse Circle, San Jose, CA 95148” dated October 28, 2020, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.
6. **Conformance with Previously Approved Zoning and Environmental Clearance.** All conditions of approval and required environmental mitigation measures from the approved Planned Development Zoning (File no. PDC94-044) remain in effect.
7. **Conformance to Other Permits.** Unless specifically modified with this permit, this project shall conform to all the requirements and conditions of previously approved permit File No. PD98-075. All permit conditions shall remain in effect, unless otherwise amended by this Permit.
8. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance.
9. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San Jose Municipal Code.
10. **Tree Removal.** No tree larger than 38 inches in circumference, measured at a height of 4.5 feet above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning.
11. **Timing of Tree Removals.** Trees that are proposed for removal or relocation to accommodate new development shall not be removed until the related Building or Grading Permit has been issued.
12. **Replacement Trees.** Ten trees to be relocated as shown on the approved plans and will be replaced in accordance with the City’s standard replacement ratio of 1:4, for any tree that does not survive in the process. If all the required replacement trees will not be provided on the site or at street frontage, the applicant shall pay an in-lieu fee of \$755 per tree, made payable to the City of San Jose, for each replacement tree that is not provided on-site. Street trees as replacement trees will be per the discretion of the City arborist (408-794-1901) and managed by the Department of Transportation ([treesandsidewalks@sanjoseca.gov](mailto:treesandsidewalks@sanjoseca.gov)).



13. **Permit Posting.** Prior to commencement of and during removal of any ordinance-sized tree pursuant to this Permit, the applicant shall post on the site, or cause to be posted, a copy of this validated Permit in conformance with the following:
  - a. The copy of the Permit shall be a minimum size of 8.5 by 11.0 inches; shall be posted at each public street frontage within 2 feet of the public sidewalk or right-of-way; and shall be posted in such a manner that the Permit is readable from the public sidewalk or right-of-way; or
  - b. If the site does not have a public street frontage, a copy of the Permit shall be posted at a location where the Permit is readable from a common access driveway or roadway.
14. **Presentation of Permit.** During removal or relocation of any ordinance-sized tree pursuant to this Permit, the applicant shall maintain the validated Permit on the site and present it immediately upon request by the Director of Planning, Building and Code Enforcement, Police Officers or their designee
15. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered, and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines. *Ten existing ordinance-sized trees are proposed to be relocated and replanted on site. An in-lieu fee of \$755 per tree would be applicable for trees that are not planted. The applicant proposes to plant additional ten new 15-gallon trees along the western boundary of the site for screening purposes, as shown in the approved plans dated October 28, 2020, on file with Planning Division.*
16. **Irrigation Standards.** The applicant shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set and is consistent with the City of San José Landscape and Irrigation Guidelines. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
17. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
  - a. *Construction Plans.* This permit file number, **PDA98-075-07** shall be printed on all construction plans submitted to the Building Division.
  - b. *Americans with Disabilities Act.* The permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
  - c. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
18. **Fire Department Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the fire requirements must be met to the satisfaction of the Fire Department
19. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris.

Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.

20. **Anti-Graffiti.** The permittee shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including job sites for projects under construction.
21. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
22. **Public Works Clearance for Building Permit(s):** Prior to the issuance of building permits, the applicant will be required to have satisfied all of the following **Public Works** conditions. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/devresources>
  - a. **Transportation:** This project would not require a detailed CEQA transportation analysis because the project is expected to result in less-than-significant VMT impacts.
  - b. **Flood:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
  - c. **Grading/Geology:**
    - i. A grading permit may be required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
      - 1) All spoils from the foundation excavations must be exported from the parcel. No placement of fill on the property is allowed unless a grading permit is obtained from the Department of Public Works.
    - ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2013 California Plumbing Code or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
    - iii. A Geologic Hazard Clearance was issued on April 3, 2020 for the subject project site, which is valid for up to three years from date of issuance.
  - d. **Street Improvements:** Applicant shall be responsible to remove and replace curb, gutter, sidewalk, or public street damaged during construction of the proposed project.
23. **Revocation, Suspension, Modification.** This Planned Development Permit Amendment may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:

- a. A violation of any conditions of the Planned Development Permit Amendment was not abated, corrected or rectified within the time specified on the notice of violation; or
- b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates a nuisance.

**APPROVED** and issued on this **18th day of November 2020.**

Rosalynn Hughey, Director  
Planning, Building, and Code Enforcement

Deputy

DRAFT